



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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February 2, 1990  
AO-90-03

Stephen Kulik  
Coordinator  
Citizens for Public  
Higher Education  
P.O. Box 22  
Amherst, MA 01004-0022

Dear Mr. Kulik:

This letter is in response to your request for an advisory opinion concerning certain activities proposed to be taken by or on behalf of Citizens of Public Higher Education ("CPHE"), an organization formed in accordance with the provisions of section 44 of M.G.L. c.3 (as a so-called lobbyist or legislative agent).

You have stated that CPHE was formed in order to provide support, financial and otherwise, to people who wish to influence legislation concerning public higher education in this state. Such people will primarily be students, faculty, staff, alumnae and other friends of the University of Massachusetts at Amherst. CPHE will not be involved in any campaigns concerning ballot initiatives or political candidates, and it will not employ the services of a legislative agent. CPHE intends to raise funds through private donations and use the funds to support activities such as voter registration drives, telephone calls, letter writing and visits to legislators. Through such activities you hope to influence legislation (primarily the state budget) that impacts public higher education.

You have inquired generally about the involvement of public employees (faculty and staff of the University) in soliciting funds for the activities described above. Specifically, you have posed the questions enumerated below.

1. May a public employee ask a fellow employee for a financial contribution to CPHE?

Section 13 of M.G.L. c.55 states, in pertinent part:

No person employed for compensation, other than an elected officer, by the commonwealth . . . shall

directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever . . .

Section 13 of M.G.L. c.55 prohibits the solicitation or receipt of contributions for political purposes by public employees. CPHE appears to be undertaking activities which do not have a political purpose. Therefore, it is the opinion of this office that an employee of the University would be permitted to solicit and receive financial contributions on behalf of CPHE. We would caution you, however, that if CPHE were to undertake activities such as supporting ballot initiatives, supporting candidates through contributions or campaign activities such as direct mail, door to door solicitations, or undertaking voter registration drives on behalf of a particular political party, such activities would be considered political, and the prohibitions in section 13 would become applicable.

2. May a public employee ask for a contribution to CPHE in a public building?

Section 14 of M.G.L. c.55 states, in part: "No person shall in any building or part thereof occupied for state, county or municipal purposes, demand, solicit or receive any payment or gift of money or other thing of value for the purposes set forth in section thirteen."

Based on the analysis described in the answer to question 1 above, it is the opinion of this office that a public employee (or anyone else) may ask for a contribution to CPHE in a public building. Again, we would caution that activities undertaken by CPHE which were different from those you described might be considered political, making the prohibition in section 14 applicable.

3. May a public employee ask for a contribution to CPHE over a publicly paid for telephone?

In Anderson v. City of Boston, 376 Mass. 178 (1978), the Supreme Judicial Court looked to the provisions of M.G.L. c.55 in addressing the question of whether governmental entities may use appropriated monies for political purposes and concluded that they may not. The use of a telephone which is publicly paid for would be prohibited by the reasoning in Anderson if the use is for a political purpose. Using the analysis above and with similar cautions, it is the opinion of this office that such use would not be political and therefore the publicly paid for telephone may be used.

4. May a public employee ask for a contribution to CPHE through the mail using an on-campus address and using the campus mail system?

Use of an on-campus address to solicit and receive a contribution could be considered a solicitation and receipt of contribution in a state building in violation of section 14 of M.G.L. c.55. Likewise the use of a campus mail system could be considered use of a government resource which would be prohibited by the Anderson Court's reasoning. However, based on the analysis in the answers to questions 2 and 3 above (and again with similar cautions), it is the opinion of this office that the use of an on-campus address as well as the campus mail system by a public employee to ask for a contribution for CPHE would not be political and therefore not subject to the provisions of M.G.L. c.55.

This opinion has been rendered solely on the basis of the representations made in your letter and solely in the context of M.G.L. c.55. We would urge you to consult with your appointing authority to determine if there are any administrative restrictions on the activities described above. We would also encourage you to consult with the State Ethics Commission regarding the conflict of interest law.

Please do not hesitate to contact this office should you have any additional questions.

Very truly yours,



Mary F. McTigue  
Director

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